THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 24997 OF 1997

Date: 15.02.2007

Between:

T. Ram Mohan Rao.

... Petitioner

and

A.P. State Electricity Board through its Member Secretary, at Vidyut Soudha, Somajiguda, Hyderabad and two others.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 24997 OF 1997

ORDER:

Aggrieved by the action of the 1st respondent in rejecting the petitioner's request for reimbursement of the medical expenses incurred by him for treatment of his daughter at the C.D.R. hospital, Hyderabad for an amount of Rs.35,991.20 ps, the present writ petition is filed.

In its proceedings dated 11.11.1996, the first respondent, after referring to Regulation 4(f) and 9(2) of A.P. State Electricity Board, the medical reimbursement Regulations read with B.P.Ms. No. 165 dated 26.06.1992 and B.P.Ms. No. 238 dated 13.12.1995, accorded sanction for payment of medical expenses of Rs.35,991.20 ps to C.D.R. hospital, Hyderabad duly deducting an amount of Rs.6,105/- towards the excess claimed by C.D.R. hospital, Hyderabad in the bill on par with NIMS Tariff Rates. While requesting the Accounts Officer to adjust and regularize the amount of Rs.35,991.20 ps, the Superintending Engineer was requested to recover the amount of Rs.35,991.20 ps from the earnings of the petitioner towards cost of inadmissible items etc., and intimate to the Accounts Officer for seeking recovery of Rs.35,991.20ps, towards treatment incurred for the medical expenses of the petitioner's daughter Kum. T. Anuradha at C.D.R. hospital as Kum. T. Anuratha was not a dependent. In Paragraph 5 of the counter affidavit it is specifically stated that under the Dependence of Children Rules it was clarified that sons and unmarried daughters who are employed, otherwise than on a part time basis, shall be regarded as gainfully employed and shall not

be treated as wholly dependent on the Government Servants for purposes of reimbursement.

On the sole ground that the petitioner's daughter Kum. T. Anuradha, was gainfully employed, and was not entitled to be treated as the petitioner's dependent rendering her ineligible for medical benefits, the claim amount, paid by the A.P. State Electricity Board to C.D.R. hospital, was sought to be recovered from the salary of the petitioner.

Sri S. Sudeep, learned Counsel appearing on behalf of Sri K. Raghuveer Reddy, learned Counsel for the petitioner, would refer to the certificate issued by the Electronics Corporation of India Limited dated 19.05.1995 certifying that Kum. T. Anuradha was working as an Apprentice under the Apprentices Act, that the ECIL Medical Attendance Rules, whereunder employees were provided medical attendance benefits was not extended to Apprentices engaged under the Apprenticeship Act and that Kum. T. Anuradha, was not eligible for any medical benefits from the E.C.I.L. Reference is made thereto in the affidavit filed in support of the writ petition and is, in fact, admitted by the respondents in Paragraph 5 of their counter-affidavit.

The short question which arises for consideration is as to whether an Apprentice, under the Apprentices Act, can be treated as an employee for it is only a person who is employed, otherwise than on part time basis, who is regarded as gainfully employed disentitling her from being treated as a dependent for extension of medical benefits. Section 18 of the Apprentices Act provides that Apprentices are trainees and not workers and under clause (a) and

(b) thereof, every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be a trainee and not a worker and the provisions of any law with respect of labour shall not apply to or in relation to such an apprentice. Since an Apprentice cannot be treated as an employee, the question of her being gainfully employed does not arise. It is also required to be taken note of that Kum. T. Anuradha expired despite the treatment given to her. Pursuant to the proceedings of the first respondent certain amounts are also said to have been recovered from the petitioner's salary. Since Kum. T. Anuradha, who was working as an Apprentice under the Apprentices Act with ECIL, cannot be said to be gainfully employed, she would fall within the definition of a dependent and consequently the petitioner would be entitled for reimbursement of the medical expenses incurred on her behalf. The impugned order seeking to recover a sum of Rs.35,991.20 ps from the petitioner's salary is clearly illegal. The order of the first respondent is quashed. Any amount which has already been recovered from the petitioner's salary shall be refunded to him forthwith.

The writ petition is allowed. However, in the circumstances, without costs.

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Date: 15.02.2007 RAMESH RANGANATHAN, J

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